1890-042 Chancery Causes Silas E. Shelbourn vs. Alexander McNeely & Lee Co

McElroy, Sally, Orr

CA-Estate Dispute
T-Property

-Deed

To the Hon' W. L. K. Morison, Judge of the
circuit Court of Lee County, Virginia.
Humbly Complaining, your oratar, Silas E
Shelbourne, would respectfully represent
and shew unto your honor, that one
Eliqaleth Mcneely, now deceased, was in
her lifetime, entitled, as an heir at law
of John McElroy deceased, to a share or
interest in his real estate, in said County,
and which share or interest in said real
estate was, by decree of your honor's Court
at the August term 1886 laid off and
assigned to said Eliqaleth Mcneely children & heirs and is known
in the report & plat of said partition as
lots No 2 & 2. A copy of which is herewith
filed as part hereof Marked "A"; that the
said Eliqaleth Mcneely ~~afforesaids to said~~
on the day of 18 departed this
life intestate, without having gone into
actual possession of said interest or lot of land,
leaving John Mcneely, Alexander Mcneely,
Arthur Mcneely, George Mcneely, Morison
Mcneely and Lavina Mcneely who married
James P Sally her children and heirs at
law and James Mcneely her husband.
Your oratar will further shew unto your
honor, that since the death of said Eliqa-
leth he has purchased from the said John
Mcneely & James P Sally & wife their interests

in said lot or share of land, and is still the owner thereof. A copy of their deed to him for their interests is herewith filed as part hereof marked "B"; that he is the owner of other lands adjoining said lot of land and that the said lot of land is susceptible of partition among the parties entitled thereto.

The object of this bill therefore is to have the said lot of land partitioned among those entitled, free from any claim of the said James Mcneely as tenant by the courtesy, and to have your orator's portion laid off and assigned to him adjoining his other lands, which can be done without prejudice to the rights and interests of other parties; and that the said James Mcneely, in whose possession the said lot of land now is, and has been since soon after the death of said Elizabeth, be made to account for the rents & profits thereof, during the time the same has been in his said possession. To this end your orator prays that the said Alexander Mcneely, Arthur Mcneely, George Mcneely, Morison Mcneely and James Mcneely be made the parties defendants to this bill and required to answer the same on oath; that proper process issue and that order of publication be made posted and published against Alexander Mcneely & Arthur Mcneely who are nonresidents of this

State; that the said real estate be divided among the parties entitled thereto, free from any claim of the said James Meneely, and your orators portion laid off to him adjoining his other lands; and that the said James Meneely be made to account for the rents and profits of said land for the time he has held and enjoyed the same, and for all such further and general relief as may be just in the premises. And your orator will ever pray &c.

Richmond & Orr, attys
for Complainant.

C 10.64 paid
S 1.50
Pr. 5.00
~~17.14~~
17.14

Silas E Shellhourn (R+O)

vs

Bill in Chy

Alx Mcneely & others

1888 1st Nov. Rules Bill filed
" 2pa Exd on home Defts & Dr
Nisi as to them Order Pub
as to non residents
" 2nd Nov Rules Order Pub
Compltt O. Mr. Confd.
1889 Aprm. Decree & contd.
" Sept & Decem contd.
1890 Mr. Dismissed
by Plaintiff.

Silas E Shelbourn Plff } In Chy.
against
Alexander McNeely et als Defts

It appearing to the Court that the parties to this suit have settled the matters in dispute between them, and have agreed that the suit be dismissed each party paying his own costs. It is therefore ordered that the cause be stricken from the docket and that each pay his own costs.

Silas E Shellcourn

vs } Order Final

A L & Mc Neely et als.

Entered page 244
Ord. ~~244~~ 244-

April 1st 1890

J. A. L. Hyatt C

Enter this Decree.

H. L. C. M.

April 1 1890.

Silas E. Shelburne

v. Decree

Alexander McNulty et al

This cause came on this day to be heard upon the bill of complaint, the exhibits filed therewith and was argued by Counsel: and the defendants failing to appear and either plead, demur or answer the bill is taken for confessed. ~~On consideration thereof it is adjudged ordered and decreed~~ and the plaintiff stating in open court that he does not wish a partition of the lands as stated in his bill, having purchased the same, it is adjudged ordered & decreed that J. A. E. Boyle one of the Commissioners of this court do take and state an account of the rents and profits of the land in the bill mentioned, for the time the same are in the possession of the defendant James McNulty and report his action to a future term of this court. That the plaintiff recover from the defendants 1/3 of the costs of this suit ~~pertaining~~ to the partition, and the liability of James McNulty for rents and profits is reserved for future adjudication and the cause is continued.

S. E Shelburn

v Dreir

Alex McDougall

Entered Chey O.B.
No 5. page 202
J. O. Stratton

~~Complainant~~ t.

I do swear that according to my information and belief, Alexander Meneely and Arthur Meneely are non-residents of this State. So help me God.

James W Orr.

Sworn to before me Oct. 15th 1888

J Alsbyatt ce

S. E. Shellcourn

vs } Affidavit

Al[x] Mowell et als

Filed Oct 15th 1888.

J. A. Hyatt D.C.

Virginia.

Lee circuit Court Aug. 29th 1885

James McNeely & wife Pffs } Ch'y
vs
James M. Davis & wife et al Dfts }

This cause came on further to be heard on the papers formerly read in the cause and the report of John A. G. Hyatt, filed in the cause March 13th 1885 and the report of Commissioners John P. Graham, A. J. Wilson and Geo. S. Lawson who partitioned the land in the Bill mentioned among those entitled thereto, as decreed by a former decree in the cause filed March 25th 1885 and was argued by Counsel, and as the report of Maj. Hyatt does not settle any thing definitely, no action is taken thereon at this time, and the said report of partition being unaccepted to. It is adjudged ordered and decreed that in so far as the said Commissioners assign lands to the Plaintiffs the said report is confirmed, and the female plaintiff having died since said partition was made

It is adjudged ordered and decreed that her children and heirs at law take and hold the two lots of land

assigned Elizabeth McNeely according to the metes and bounds set out in said Commissioners report, and shown in their plat which accompanies said report, each of which is designated thereon as Lot No 2 and No 2. and that the male Plaintiff, take and hold the two lots No 3. on said plat according to the mets and bounds as set out in said report; and said report and plat, with this and the former decree is ordered to be delivered by the Clerk of this, to the Clerk of the County Court that the same may be recorded and the parties to this suit will pay the Costs thereof down to this time in proportion to their interest in said land, and it is further adjudged ordered and decreed that the lot of land Marked No 1. on the plat designed Polly Davis, the lot Numbered 4 on the plat assigned the two Milbourn Heirs, the lot of land Numbered 5 on said plat assigned A. J & B. McElroy Children and the two lots of land numbered 6 each on said plat assigned. the Heirs

A. J. B. McElroy, and the two lots of land numbered 6 each on said plat & assigned the heirs of W. S. McElroy be sold for Cash in hand as required by the deed of trust, in the Bill and Proceedings, said sale to be made at the front door of the Court House of said County on some court day to the highest bidder after the same shall have been advertised publickly for thirty days prior thereto, showing time terms and place of sale, said lots may be sold seperately or in a body together which ever way the same will bring the best price, And Henry J. Morgan is hereby appointed a special Comr. to execute this decree, who before doing so, is required to execute bond before the Clerk, with good security in the penalty of 700. with condition to account for all money he may receive in the Cause and he will report, this action to this Court and the Cause is Continued.

A Copy

Teste J. A. Hyatt C. C.

Silas E. Shelburn

vs } Copy of Decree

Alex. McKeeley & others

"A"

Fee for Copy 75¢

This deed made this 25th day of May 1888 Between John McNeely and Amanda McNeely his wife and J K P Sally and Lydia L Sally his wife two of the heirs at law of Elizabeth McNeely dcd of the first part and Silas E. Shelburne of the second part all of the county of Lee State of Virginia Witnesseth that in consideration of two Hundred and twenty dollars in hand paid and secured to be paid the receipt of which is duly acknowledged the said parties of the first part do by these presents give grant bargain sell deliver and convey unto the said Silas E. Shelburne all their undivided right title and interest in and to all the real estate owned by the said Elizabeth McNeely at the time of her death the same being two Sixths or one undivided third part of that lot or parcel of land which the said Elizabeth McNeely inherited from her father John McElroy dcd. and the same lies in Lee County Va and on Station creek and the said Shelburne agreeing to take the same with all encumbrances thereon. To have and to hold the said undivided interest hereby conveyed with all the appurtenances unto the said Silas E Shelburne and his heirs forever, and the parties of the first part covenant that subject to said encumbrances they will warrant generally the title to the land conveyed And the parties of the first part hereby retain a lien for the unpaid purchase Money. Witness the following Signatures & Seals

John McNeely (Seal)

Amanda her McNeely (Seal)
mark

James P. Sally (Seal)

Lydia L. her Sally (Seal)
mark

Virginia: Lee County to wit:-

I John A. G. Hyatt a Comr. in Chancery for Lee County Court, the same being a Court of record, do hereby certify that John McNeely, and Amanda McNeely his wife and James P. Salley each personally appeared before me in my County aforesaid and signed and acknowledged the foregoing deed, bearing date on the 25th day of May 1888, to be their joint act and deed for the purposes therein stated, and the said Amanda McNeely wife of the said John McNeely, being examined by me privily & apart from her said husband and having the aforesaid deed read & fully explained to her, She the said Amanda McNeely declared she willingly signed & acknowledged said deed, and does not wish to retract it. Given under my hand this 25th day of June 1888.

J. A. G. Hyatt Comr & C

Virginia Lee County Court

I Henry J Morgan a commissioner in chancery of the circuit Court of Lee county, the same being a court of record, do certify that Lydia L Salley wife of James P.

Sally whose names are signed to the foregoing writing bearing date May the 25 1888 personally appeared before me in the said county and acknowledged the said writing to be her act and deed and being examined by me privily and apart from her husband and having the writing aforesaid fully explained to her declared that she had willingly signed and executed the same and did not wish to retract it

Given under my hand May 25 1888

Henry J Morgan Com

Virginia Lee County Court Clerks office July 31st 1888
The foregoing Deed bearing date May 25th 1888 between John McNiely & others of the one part and Silas E. Shelbourne of the other part &c. of Lee County Va was this day filed in this office & admitted to record upon the foregoing certificates of J. A. G. Wyatt & H. J. Morgan Comrs for Lee County Va

Test: John R. Gibson Clerk

(46)

S. E. Shelburne

From

Deed

John McNeely & wife

Recorded in Deed Book

Number 23 Page 310

John R. Gibson Clerk

Examined August 1st 1888

B

$ 50
1 25
$1.75

July 31st 1888.

Rocky Station, Va.
March 3rd, 1890

This is to certify that this is a true copy of the bond that I hold between Dr. S. E. Shelburn and James McNeely as regards the compromise and drawing of a suit instituted by Dr. Shelburn against Jas. McNeely & Co.

Bond drawn May 17th 1889.

James H. Graham

P. S.

The bond can be had by an order from both parties'

J. H. G.

Know all men by these presents that we Dr. S. E. Shelburn Plain, in a suit as regards the rents of the heirs of Elizabeth Mc. Neely Decd and James Mc. Neely Defts. are held and firmly bound in the sum of One Thousand Dollars. Witness our hands and seals This 17th day of May 1889.

Now the condition of the above obligation is such that whereas the said Dr. S. E. Shelburn has instituted a suit against James Mc. Neely for back rents for four of the heirs of Elizabeth Mc. Neely Decd., on the land heired from John Mc. Elroy Decd., and the said Dr. S. E. Shelburn and James Mc. Neely have agreed upon a compromise by leaving the matter to A. L. Loyd, W. W. Mc. Elroy, A. J. Wilson and M. C. Parsons; and those

four men select a fifth man and the decision of these men are tobe forever binding on said Shelburn and Mc Steely, and further Dr. S. E. Shelburn on his part agrees to draw the suit now pending against said Mc Steely and pay all the costs that have occurred in the suit, except the issuing summons for James H. Graham, A. L. Loyd, and W. N. Mc Elroy and for their services of this day May 17th 1889. and further Mc Steely agrees to pay his own lawyer. said Mc Steely and sons George & Morrison claim nothing for their trouble attending to suit or showing the improvements &c.
Witness our hands and seals.
This May 17th 1889.
these four men agree
on Jas. H. Wilson as the
fifth man.

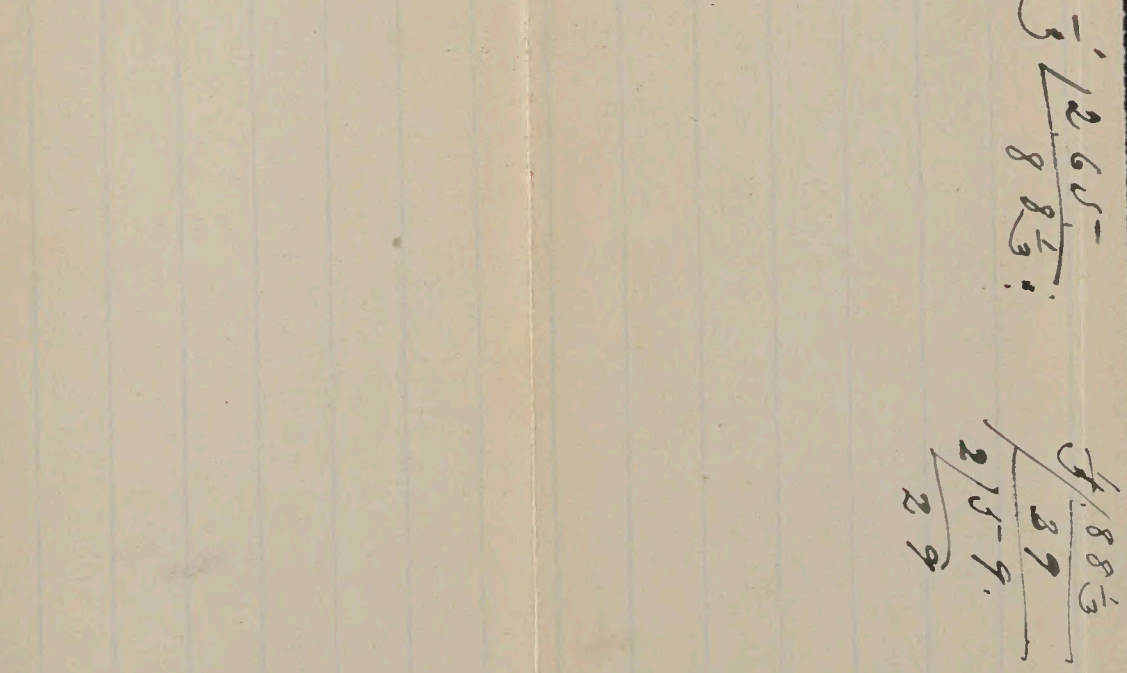
S. E. Shelburn Seal
Jas. Mc Steely Seal

See my certificate accompanying this paper

The Plaintiff has purchased all the land and has deed therefor, hence no partition is now asked, and the matters of rent has been compromised, and by agreement this cause is to be dismissed by Plaintiff Each party paying their own costs -

J. A. L. Hyatt

Memo. for
dismissing
at March 1. 1890.



Virginia

In the clerk's Office of the circuit court for Lee county, on the 15th day of October 1888.

Silas E. Shelburn Plff } In Chy.
vs
Alex. McNeely & others Defts } to

The object of this suit, is, to have an account of rents and profits taken and partition made of the land and the bill proceedings mentioned, — And it appearing from an affidavit filed in the cause, that the defendants Alexander McNeely and Arthur McNeely are non residents of this State — It is therefore ordered that they appear here within 15 days after due publication of this order to do what may be necessary to protect their interest in this suit.

A Copy

Richmond & Orr P.Q. Teste J.A. McGuffin c.c.

Silas E Shelbourne

To } Order. Pub.
Jas McNeely Dft

I certify that I delibered an office Copy of this order to the C. Eagle for. Publication on the 15th day of October 1888 and posted a like copy thereof on the front Door of Lee Court House at the Nov. Term 1888 of the County Court.

J. A. Hyatt c.c.

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon Alexander McNeely, Arthur McNeely, George McNeely, Morrison McNeely and James McNeely

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday in Nauember next, being rule day to answer a bill in Chancery exhibited in our said Court against them by Silas E. Shelburne

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.
This 10th day of October 1888, in the 113 year of the Commonwealth.

J. A. G. Hyatt *Clerk.*

A Copy Teste

R & C

Dec 29th 1888.
R. S. Delaney P.Q.

Silas E. Shelburn

vs

Spain Chey

Alex. McNelystal

To 1st Nov. Rules 1888

Executed by delivering an office copy of the within Spa to James M. McNeely, George McNeely and by leaving an office copy with J. M. McNeely for Morrison McNeely and by reading & explaining the same to him he being a member of the family & said Morrison not being found at his usual place of abode

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

WE COMMAND YOU TO SUMMON Jas. H. Graham, A. L. Loyd and W. W. McElroy, To go upon the lands lately owned by the heirs of Elizabeth McNeely, but occupied by James McNeely so as to intelligently testify as to rents & permanent improvements while occupied by said McNeely

To ~~appear~~ before the ~~Judge~~ a court of our Circuit Court of Lee County, at the courthouse on the 24th day of May 1889 ~~term next~~ to testify and the truth to speak in behalf of James McNeely in certian matters of controversy pending in our said Court between

L. E. Shelburn Plaintiff, and said James McNeely

Defendant. And this they shall in no wise omit under the penalty of Twenty Dollars. And have then there this writ. Witness, J. A. G. Hyatt, Clerk of our said Court at the Courthouse.

This 13th day of May 1889, in the 113 year of the Commonwealth.

J. A. G. Hyatt Clerk.

James. McNeely
ads
S. E. Shelburn

To 24th May 1889

We accept legal service of the within Sum May 13th 1889.

A. L. Loyd
Jas. H. Graham
W. W. McElroy